

LCB File No. R193-07

PROPOSED REGULATION OF THE STATE BOARD OF ORIENTAL MEDICINE

(NOTE: The provisions of this regulation were split out from
LCB File No. R224-05 (§§1 and 7 to 19 of the LCB Draft))

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-9, 11, 12, 15 and 17-19, NRS 634A.070; §§10, 13 and 14, NRS 634A.070
and 634A.120; §16, NRS 634A.165.

A REGULATION relating to Oriental medicine; providing procedures to establish, maintain and
operate a school or college of Oriental medicine; revising provisions governing
licensing; and providing other matters properly relating thereto.

Section 1. Chapter 634A of NAC is hereby amended by adding thereto the following
provisions: *No member of the Board may participate in preparing, examining or grading an
examination or in any other decision made with respect to an applicant to whom the member
is related within the third degree of consanguinity or affinity or with whom the member has a
significant pecuniary relationship. Information regarding such a relationship must be
disclosed by the Board member and applicant at the time of application.*

Sec. 2. NAC 634A.010 is hereby amended to read as follows:

634A.010 1. The Board will designate a person to act as Executive Director of the Board.
2. The principal office of the Board is the office of that person designated as the Executive
Director. ~~[The principal office of the Board will be open during regular business hours.]~~

Sec. 3. NAC 634A.080 is hereby amended to read as follows:

634A.080 1. An applicant for a license to practice Oriental medicine must submit, together with his application, evidence that he has successfully completed an accredited 4-year program of study, or its equivalent ~~[]~~ *in hours of instruction*, in Oriental medicine at a school or college of Oriental medicine which is *currently* approved by the Board.

2. If the application is submitted pursuant to subsection 1 of NRS 634A.140, the applicant must submit evidence showing that he has earned a bachelor's degree from an accredited college or university in the United States.

3. If the application is submitted pursuant to subsection 2 of NRS 634A.140, the applicant must submit evidence that he has lawfully practiced Oriental medicine in another state or foreign country for at least 4 years.

4. For the purposes of subsection 1, the Board may approve an accredited 4-year program of study, or its equivalent ~~[]~~ *in hours of instruction*, in Oriental medicine at a school or college of Oriental medicine if the Board finds that:

(a) The program of study includes , *without limitation, at least the following number of hours of* training or instruction in the *following* subjects ~~[of acupuncture, moxibustion, herbology, Oriental physiology, Oriental pathology, Oriental diagnosis, tuina, biology, physics, chemistry, biochemistry, anatomy, Western physiology, Western pathology, Western diagnosis, pharmacology, laboratory and radiology; and]~~ :

- (1) *Three hundred and eighty hours in acupuncture;*
- (2) *One hundred and twenty hours in classical Oriental medicine;*
- (3) *One hundred and twenty hours in herbal prescription;*
- (4) *One hundred and sixty hours in herbology;*
- (5) *Eighty hours in human anatomy;*

- (6) One hundred and sixty hours in internal medicine;*
- (7) Eighty hours in Oriental medical diagnosis;*
- (8) Forty hours in Oriental medical principles;*
- (9) Eighty hours in pathology;*
- (10) Forty hours in pharmacology;*
- (11) Five hundred and forty hours in Western medical sciences;*
- (12) Three hundred clinical hours; and*
- (13) Seven hundred hours in elective courses.*

(b) The program of study:

(1) Required the completion of at least 2,800 hours of instruction, including not less than 2,500 didactic hours ~~[H]~~ *and 300 clinical hours*, for a student to have graduated before November 25, 2002; ~~[or]~~

(2) Requires the completion of at least 3,000 hours of instruction, including not less than 2,500 didactic hours ~~[H]~~ *and 500 clinical hours*, for a student to graduate on or after November 25, 2002 ~~[H]~~, *but before November 25, 2010; or*

(3) Requires the completion of at least 4,000 hours of instruction, including not less than 2,800 didactic hours and 1,200 clinical hours, for a student to graduate on or after November 25, 2010.

5. *A program of study that includes training or instruction where the delivery method includes distance education courses offered through video, interactive video or the Internet is subject to approval by the Board.*

6. For the purposes of subsections 2 and 3, evidence that the applicant is qualified for licensure as a doctor of Oriental medicine must include certified copies of any diplomas,

transcripts, licenses and certificates issued to the applicant. If possible, all certified copies of official diplomas, transcripts, licenses or certificates must be forwarded directly to the Executive Director from the issuing entity rather than from the applicant.

Sec. 4. NAC 634A.085 is hereby amended to read as follows:

634A.085 ~~[(H)]~~ To comply with the requirement of passing an examination in Oriental medicine that is administered by a national organization approved by the Board pursuant to NRS 634A.120, an applicant for licensure as a doctor of Oriental medicine must pass the examinations for acupuncture and Chinese herbology administered by a national organization approved by the Board. ~~[(F)]~~

~~—(a) Not earlier than the 2 years immediately preceding the date on which his application is submitted; and~~

~~—(b) Not later than the date on which his application is complete.~~

~~—2. If an applicant has passed any of the examinations required pursuant to subsection 1 more than 2 years immediately preceding the date of submission of his application, the applicant shall be deemed not to have passed that examination for the purpose of complying with subsection 1 and must retake and pass that examination in accordance with the provisions of subsection 1.]~~

Sec. 5. NAC 634A.090 is hereby amended to read as follows:

634A.090 1. ~~[(The deposit to be used to defray the expenses of the investigation of each applicant's background and training is nonrefundable. If the cost of the investigation exceeds the sum deposited, no further consideration will be given to the application until the applicant has tendered in full such additional investigative fees as the Board deems reasonably necessary to complete the investigation.)]~~ *An investigation of an applicant's background and training by the Board or any person acting on its behalf must include:*

- (a) Verification of a report from the Federal Bureau of Investigation showing no prior convictions;*
- (b) Verification of graduation from a school or college approved by the Board;*
- (c) Verification of licensure in another state or country, if applicable;*
- (d) Verification that questions on the application relating to the applicant's background have been answered correctly; and*
- (e) Further investigation of an applicant who attended a foreign school or college or practiced Oriental medicine in another state or country as the circumstances warrant.*

2. An applicant may not take the practical examination for which he has applied before the investigation of his background and training has been completed.

Sec. 6. NAC 634A.095 is hereby amended to read as follows:

634A.095 1. Except as otherwise provided in subsection 2, an applicant for a license to practice Oriental medicine must:

(a) Before taking the practical examination, pass ~~[the]~~ :

(1) The Test of English as a Foreign Language with a score of at least ~~[550; and] 500;~~

(2) The Michigan Test of English Language Proficiency with a score of at least 76; or

(3) A test of general education development.

(b) At the time of the practical examination, demonstrate a reasonable proficiency in the English language through an oral interview.

2. Subsection 1 does not apply to an applicant who graduated from a high school or college in the United States.

Sec. 7. NAC 634A.100 is hereby amended to read as follows:

634A.100 1. The practical examination will be given in June and December of each year. An applicant may not take the practical examination unless the applicant has first passed the examinations required pursuant to NAC 634A.085. The Executive Director shall notify an applicant of the time and place of the practical examination not later than 20 days before the date on which the practical examination is scheduled.

2. During the practical examination, only the testing consultant and the applicants will be allowed in the examination rooms.

3. Various sections of the practical examination may be given in written, oral or demonstrative form.

4. As a part of any practical examination, the Board may examine an applicant as to his basic knowledge of the ~~following subjects:~~ *subjects included within any one or more of the following four sections of the examination:*

(a) *The first section may cover:*

(1) Needling. The Board may require a demonstration of needling on a patient or on the applicant himself.

~~(b)~~ (2) Skills pertaining to ~~sterilization.~~
~~(c)~~ *the clean needle technique.*

(3) Skills pertaining to the use of herbs.

~~(d) Basic~~

(b) *The second section may cover* medical science concerning anatomy, physiology, pathology, biochemistry, bacteriology and communicable diseases.

~~(e) Applicable~~

(c) *The third section may cover* laws and regulations pertaining to health and safety.

~~[(f) Use]~~

(d) The fourth section may cover use of the English language, as described in NAC 634A.095.

5. Each applicant shall take the practical examination in the English language.

6. An applicant must receive ~~[an overall]~~ a score of ~~[75]~~ *at least 70* percent on ~~[the practical examination and 60 percent on all of its sections or subparts to pass the practical examination.]~~ *each section of the practical examination to pass.*

Sec. 8. NAC 634A.110 is hereby amended to read as follows:

634A.110 1. An applicant for a license to practice Oriental medicine who has failed the practical examination may ~~[apply for reexamination by the Board no earlier than 6 months after the date of the practical examination failed by the applicant.]~~ *retake the examination on the next scheduled examination date.* A person seeking reexamination shall notify the Executive Director by completing a form prescribed by the Board and submitting the fee set forth in NAC 634A.165.

2. If an applicant who has failed the practical examination failed only one section of the practical examination, he will be reexamined only with respect to the section that he failed. If the applicant failed two or more sections of the practical examination, he must repeat the entire practical examination at the time of reexamination.

~~[3.—An applicant may not take the practical examination or any portion thereof more than three times within any 5-year period. If an applicant must retake only a portion of the practical examination and the applicant does not successfully complete that portion after his third attempt, he must at any future reexamination repeat the entire practical examination then being administered by the Board.]~~

Sec. 9. NAC 634A.116 is hereby amended to read as follows:

634A.116 1. A license issued to an alien automatically ~~terminates~~ *transfers to inactive status* if he loses his entitlement to remain and work in the United States.

2. A license issued to an alien after November 25, 2002, must state in a conspicuous manner:

This license is issued subject to any limitations imposed by the ~~United States~~ Department of ~~Justice, Immigration and Naturalization Service.~~ *Homeland Security, Bureau of Citizenship and Immigration Services.* This license becomes ~~void~~ *inactive* immediately upon the termination of the right of the person named herein to remain and work in the United States lawfully.

Sec. 10. NAC 634A.125 is hereby amended to read as follows:

634A.125 A person who is not a licensee may be issued a temporary certificate pursuant to NRS 634A.165 if:

1. The person submits an application to the Board, on a form provided by the Board, that includes:

- (a) The curriculum vitae of the applicant;
- (b) The specific topic concerning Oriental medicine or acupuncture which is the subject of the seminar, lecture or teaching;
- (c) The specific dates for which the temporary certificate is requested; and
- (d) Evidence that the person is competent with respect to the specific topic concerning Oriental medicine or acupuncture which is the subject of the seminar, lecture or teaching;

2. The person submits the appropriate fee for issuance of a temporary certificate pursuant to NAC 634A.165; and

3. The Board approves the application at a ~~[regularly-scheduled meeting-]~~ *meeting of the Board.*

Sec. 11. NAC 634A.130 is hereby amended to read as follows:

634A.130 1. At the time a license is issued and on each renewal thereof, ~~[an identification card]~~ *a pocket license* bearing the expiration date of the license or renewal will be issued to each licensee and he shall keep the ~~[identification card]~~ *pocket license* in his possession at all times during the performance of his professional services.

2. At the request of any patient or prospective patient, any member of the Board or any peace officer, the licensee shall permit the ~~[identification card]~~ *pocket license* to be inspected for the purpose of identification and as proof that all current fees have been paid.

Sec. 12. NAC 634A.135 is hereby amended to read as follows:

634A.135 1. Except as otherwise provided in this section, a licensee shall complete, during each calendar year, at least 10 hours of continuing education.

2. A licensee may only receive credit for hours of continuing education in courses that have been approved by the Board pursuant to NAC 634A.137.

3. Beginning with the 2003 calendar year, a licensee who earns more than 10 hours of credit for continuing education in any calendar year may carry forward up to ~~[15]~~ *10* hours of excess credit and apply such excess credit to the educational requirements for the next ~~[two calendar years]~~ *calendar year* if the licensee indicates in writing, at the time he submits the form for renewal of his license pursuant to NRS 634A.167, that he intends to carry forward such excess credit.

4. A licensee who is not practicing in this State may request the Board to classify his license as inactive. A person who holds an inactive license is exempt from the requirements set forth in this section regarding continuing education.

5. A person who is requesting the Board to change the classification of his license from inactive to active must:

(a) Satisfy the requirements of continuing education for the year in which he seeks to reclassify his license;

(b) Submit proof to the Board that he has satisfied the applicable requirements; and

(c) Submit the fee set forth in NAC 634A.165.

Sec. 13. NAC 634A.160 is hereby amended to read as follows:

634A.160 1. If a license is revoked, the license and the ~~identification card~~ *pocket license* previously issued by the Board must be surrendered by the licensee to the Executive Director within 5 days after receipt of a notice of revocation.

2. If a license is suspended for a fixed period, the license and the ~~identification card~~ *pocket license* previously issued by the Board must be surrendered by the licensee to the Executive Director within 5 days after receipt of a notice of suspension.

3. If a license or ~~identification card~~ *pocket license* must be surrendered pursuant to subsection 1 or 2 but has been lost, stolen or destroyed, the licensee must complete and file an affidavit with the Board stating that the license or ~~identification card~~ *pocket license* has been lost, stolen or destroyed and that the licensee will immediately return the license or ~~identification card~~ *pocket license* if it is later recovered by the licensee.

4. If the license or ~~identification card~~ *pocket license* of a licensee is lost, stolen or destroyed, the licensee must:

- (a) Complete and file an affidavit with the Board stating that the license or ~~identification card~~ *pocket license* has been lost, stolen or destroyed and that the licensee will immediately return the license or ~~identification card~~ *pocket license* if it is later recovered by the licensee; and
- (b) Pay the fee set forth in NAC 634A.165 for replacement of the license or ~~identification card~~ *pocket license*.